

**CONTRACT #1**  
**RFS # N/A**

**Tennessee Board of Regents**  
**University of Memphis**

**VENDOR:**  
**Paciolan, Inc.**



## Tennessee Board of Regents

1415 Murfreesboro Road - Suite 350 - Nashville, Tennessee 37217-2833  
(615) 366-4400 FAX (615) 366-4464 www.tbr.edu

October 2, 2007

RECEIVED

OCT 08 2007

FISCAL REVIEW

Ms. Leni S. Chick  
Fiscal Analyst  
Rachel Jackson Building, 8<sup>th</sup> Floor  
Nashville, TN 37243

Dear Ms. Chick:

Enclosed please find Amendment 3 between the University of Memphis and Paciolan, Inc. for a system upgrade to allow customers to purchase tickets, parking, athletic memorabilia, and make donations on-line. Please note that the proposed term of this Amendment is five (5) years from the date of execution. I have also included copies of the original Agreement and Amendments 1 and 2.

Per Fiscal Review's request to see non-competitive agreements/amendments, and the amount and term involved with this amendment, we are submitting this for approval to the Committee. **Please contact me regarding the date this will go before the Fiscal Review Committee and I will inform the representatives to insure they are present for the meeting in which the contract will be discussed.** If you have any questions, please do not hesitate to contact me at 366-4436.

Information regarding the contract may be sent to my attention at the Tennessee Board of Regents, 1415 Murfreesboro Road, Suite 350, Nashville, Tennessee 37217.

Sincerely,

Angela A. Gregory  
Director of Purchasing and Contracts

cc: Charles Manning  
Bob Adams  
William Mueller, UOM  
David Zettergren, UOM

Austin Peay State University • East Tennessee State University • Middle Tennessee State University • Tennessee State University  
Tennessee Tech University • University of Memphis • Chattanooga State Technical Community College  
Cleveland State Community College • Columbia State Community College • Dyersburg State Community College  
Jackson State Community College • Motlow State Community College • Mississippi State Technical Community College  
Roane State Community College • Southwest Tennessee Community College • Volunteer State Community College  
Walters State Community College • Nashville State Technical Community College • Northeast State Technical Community College  
The Tennessee Technology Centers

## 021406

RFS#		Contract #	
State Agency		State Agency Division	
THE UNIV. OF MEMPHIS		TBR	
Contractor Name		Contractor ID# (FEIN or SSN)	
PACIOLAN, INC.		C- or V- 953518417	
Service Description			
SYSTEM UPGRADE FOR PACIOLAN, INC. COMPUTER SYSTEM FOR ATHLETIC TICKETING -			
Contract BEGIN Date		Contract END Date	
7/1/2008		6/30/2013	
Subrecipient or Vendor?		CFDA#	
VENDOR		FUNDRAISING E-VENTURE / TRANSACTIONS	
Mark Each TRUE Statement			
<input type="checkbox"/> Contractor is on STARS		<input type="checkbox"/> Contractor's Form W-9 is on file in Accounts	
Allotment Code		Cost Center	
480300		78110	
Object Code		Fund	
112000			
Funding Grant Code		Funding Subgrant Code	
FY		State	
'09		36,500.00	
'10		41,500.00	
'11		44,000.00	
'12		44,000.00	
'13		44,000.00	
TOTAL Contract Amount			
\$ 210,000.00		\$ 210,000 - this amendment	
		\$ 1,025,000 - total maximum cost	
COMPLETE FOR AMENDMENTS ONLY		State Agency Fiscal Contact & Telephone	
FY		(901) 698-2261	
Base Contract & Prior Amendments		State Agency Budget Officer Approval	
THIS Amendment ONLY		Funding Certification (certification required by T.C.A. § 9-4-5113, that there is a balance in the appropriation from which the obligated expenditure is required to be paid that is not otherwise encumbered to pay obligations previously incurred)	
TOTAL: \$		\$	
End Date			
Contractor Ownership (complete only for base contracts with contract # prefix: FA or GR)			
African American		Person w/ Disability	
Asian		Female	
Hispanic		Native American	
Small Business		OTHER minority/disadvantaged—	
<input checked="" type="checkbox"/> NOT disadvantaged			
Contractor Selection Method (complete for ALL base contracts—N/A to amendments or delegated authorities)			
RFP		Competitive Negotiation	
<input checked="" type="checkbox"/> Non-Competitive Negotiation		Negotiation w/ Government (eg, ID, GG, GU)	
Alternative Competitive Method		Other	
Procurement Process Summary (complete for Alternative Method, Competitive Negotiation, Non-Competitive Negotiation, OR Other)			
PLEASE SEE RESPONSES TO SECTIONS 17 & 18 ON REQUEST: NON-COMPETITIVE CONTRACT			

Exhibit A- Supplemental Investment Analysis contains the pricing for the 5 year period.

The Minimum Annual Fees for Each Year are as below:

08-09	\$ 24,000 + 2,500 + 10,000= \$ 36,500
09-10	\$ 24,000 + 2,500 + 5,000 + 10,000= \$ 41,500
10-11	\$ 24,000 + 2,500 + 7,500 + 10,000= \$ 44,000
11-12	\$ 24,000 + 2,500 + 7,500 + 10,000= \$ 44,000
12-13	\$ 24,000 + 2,500 + 7,500 + 10,000= \$ 44,000

Total	\$ 210,000.00
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THE UNIVERSITY OF  
**MEMPHIS**

Office of Legal Counsel

201 Administration Building  
Memphis, Tennessee 38152-3370

Office: 901.678.2155  
Fax: 901.678.3489

[www.memphis.edu](http://www.memphis.edu)

Date: October 4, 2007

To: Angela Gregory  
Director of Purchasing & Contracts  
Tennessee Board of Regents  
1415 Murfreesboro Road, Suite 350  
Nashville, Tennessee 37217

From: Billy Mueller *Billy*

RE: Amendment No. 3 to the System Purchase Contract between Paciolan, Inc. and  
The University of Memphis  
Fiscal Review Form- Request: Non-Competitive Amendment  
Our File Number: 06-300

Enclosed please find the original of the above Fiscal Review Form that has been  
signed by President Shirley C. Raines.

Ms. Leni Chick had requested this document.

If you have any questions, please contact me at (901) 678-3879.

Thank you for your cooperation in this matter.

Enclosure

Cc: Mr. Bill Lofton  
Procurement Services  
Ms. Leni Chick

Via E-Mail  
Via E-Mail  
Via E-Mail

## REQUEST: NON-COMPETITIVE AMENDMENT

APPROVED

Commissioner of Finance & Administration  
Date:

EACH REQUEST ITEM BELOW MUST BE DETAILED OR ADDRESSED AS REQUIRED:

1) RFS #	
2) State Agency Name:	THE UNIV. OF MEMPHIS
EXISTING CONTRACT INFORMATION	
3) Service Caption:	
4) Contractor:	PACIOLAN, INC.
5) Contract #:	06-300
6) Contract Start Date:	JUNE 30, 2003
7) Current Contract End Date IF all Options to Extend the Contract are Exercised:	JUNE 30, 2008
8) Current Total Maximum Cost IF all Options to Extend the Contract are Exercised:	\$ 120,000.00 + DEPENDENT ON # OF
PROPOSED AMENDMENT INFORMATION	
9) Proposed Amendment #:	TRANSACTIONS
10) Proposed Amendment Effective Date (attached explanation required if date is > 60 days after F&A receipt)	JULY 1, 2008
11) Proposed Contract End Date IF all Options to Extend the Contract are Exercised:	JUNE 30, 2013
12) Proposed Total Maximum Cost IF all Options to Extend the Contract are Exercised:	\$ 210,000.00 + DEPENDENT ON # OF TRANSACTIONS
13) Approval Criteria: (select one)	<input type="checkbox"/> use of Non-Competitive Negotiation is in the best interest of the state <input checked="" type="checkbox"/> only one uniquely qualified service provider able to provide the service
14) Description of the Proposed Amendment Effects & Any Additional Service:	
EXTENSION OF TERM THAT IS SET TO EXPIRE ON JUNE 30, 2008.	
15) Explanation of Need for the Proposed Amendment:	
E-VENUE PORTION OF AGREEMENT WILL EXPIRE JUNE 30, 2008 BUT UNLESS THE TERM IS EXTENDED.	

16) Name & Address of Contractor's Current Principal Owner(s) : (not required if proposed contractor is a state education institution)	
PACIO LAN, INC., 5171 CALIFORNIA AVENUE, SUITE 200, IRVINE, CA 92617	
17) Documentation of Office for Information Resources Endorsement : (required only if the subject service involves information technology)	
select one:	<input type="checkbox"/> Documentation Not Applicable to this Request <input checked="" type="checkbox"/> Documentation Attached to this Request
18) Documentation of Department of Personnel Endorsement : (required only if the subject service involves training for state employees)	
select one:	<input checked="" type="checkbox"/> Documentation Not Applicable to this Request <input type="checkbox"/> Documentation Attached to this Request
19) Documentation of State Architect Endorsement : (required only if the subject service involves construction or real property related services)	
select one:	<input checked="" type="checkbox"/> Documentation Not Applicable to this Request <input type="checkbox"/> Documentation Attached to this Request
20) Description of Procuring Agency Efforts to Identify Reasonable, Competitive, Procurement Alternatives :	
NO OTHER SYSTEM IS AVAILABLE WHICH HAS THE INTEGRATION WITH DONOR RECORDS NEEDED BY THE UNIVERSITY. FISCAL REVIEW COMMITTEE APPROVED	
21) Justification for the Proposed Non-Competitive Amendment : THE VENDOR 4/07.	
SEE BELOW	
REQUESTING AGENCY HEAD SIGNATURE & DATE : (must be signed & dated by the ACTUAL procuring agency head as detailed on the Signature Certification on file with OCR—signature by an authorized signatory will be accepted only in documented exigent circumstances)	
<div style="display: flex; justify-content: space-between;"> <div>Shirley C. Rames</div> <div>10/4/07</div> </div> <div style="display: flex; justify-content: space-between;"> <div>Agency Head Signature</div> <div>Date</div> </div>	

21. THE VENDOR POSSESSES EXCLUSIVE +/OR PREDOMINANT CAPABILITIES OR THE ITEMS CONTAIN A PATENTED FEATURE PROVIDING SUPERIOR UTILITY NOT OBTAINABLE FROM SIMILAR PRODUCTS; THE PRODUCT OR SERVICE IS UNIQUE + EASILY ESTABLISHED AS ONE OF A KIND; THE PROGRAM REQUIREMENTS CANNOT BE MODIFIED SO THAT COMPETITIVE PRODUCTS OR SERVICES MAY BE USED; ITEMS MUST BE INTERCHANGEABLE OR COMPATIBLE WITH IN-PLACE ITEMS. AND THE COST OF CONVERSION INCLUDING BUT NOT LIMITED TO DISRUPTION, RE-TRAINING, AND REPLACEMENT PRECLUDES BIDDING COMPETITIVELY.

# Memo

**To:** Bill Mueller, Attorney  
**From:** Wesley Wheeler, Local Technical Support Provider II-Athletics  
**CC:** Bill Lofton, Associate Athletic Director  
**Date:** 8/7/2007  
**Re:** Paciolan Systems

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Paciolan Systems has been our ticketing system provider since 1983. Our goal is to become current with their newest upgrade as we are several versions below what the installed customer base is now.

Paciolan provides all the tools, support and latest technology to aid us in the setup and maintenance of this ticketing website or e.Venue. It's like having another branch office that has a low cost, is virtually never closed and is a convenient, fast and secure way for our supporters to manage their donations, renewals, and ticket purchases.

Online ticketing/e.Venue is a product that offers us flexibility and room to grow with the new emerging technologies that is driving the ticketing industry (eCommerce). The goal of e.Venue (online ticketing) is to offer the customer more benefits by being available to sell and process tickets, renewals and donations- all online and whenever the customer wants, 24/7. With this, we will gather ticket holder information when they sign up for their online ticketing account and be able to use that information for future sales.

After the initial online membership grows, more opportunities and choices will be able to be offered via online sales. This will, in effect, help us to grow single and occasional ticket purchasers into a mini-series/combo ticket holders or even better, season ticket holders. The avenue for this strategy is the added value that e.Venue offers us as a ticket seller, allowing us to formulate offers to active ticket purchasers in hopes of increasing revenue for that particular event. We would not be able to reach these customers quickly and efficiently if we did not have e.Venue. We will also be able to customize marketing strategies for our online purchasers and attempt to create new purchases by cross-promoting opportunities (i.e., offer basketball only season ticket purchasers special promotions of a projected low attendance football game).

Paciolan is the market leading venue-enabler providing a fully integrated ticketing, marketing, and development infrastructure that puts venues in direct control of their customer relationships, brand and revenue potential. PSI has always been a leader in the area of college athletics ticketing and is known for its flexibility and willingness to work with the customer for any needs that the customer may require of its system software.



**AMENDMENT NO. 3  
TO  
SYSTEM PURCHASE CONTRACT**

This Amendment No. 3 ("Amendment") to that certain System Purchase Contract dated March 6, 1998, as amended and supplemented from time to time by Amendment No.1 dated June 30, 2003 ("Amendment No.1") and Amendment No.2 dated April 30, 2007 ("Amendment No.2") (collectively, the "Original Agreement") is entered into effective as of July 1, 2008 ("Amendment Effective Date") by and between Paciolan, Inc. ("Paciolan") and University of Memphis ("Customer").

**Background**

Paciolan and Customer now desire to further amend and supplement the Original Agreement as specified below in order to (i) supplement, amend and restate the transaction fees (Service Fees/e.Venue Service Fees) to be paid by Customer and (ii) extend the term of the Original Agreement.

In consideration of the foregoing and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree to amend the Original Agreement as follows.

**Original Agreement Amendments**

1. **Supplemental Investment Addendum.** There is hereby added to the Investment Analysis to the Original Agreement, the Supplemental Investment Analysis attached hereto as **Exhibit A.** The Supplemental Investment Analysis (i) supplements the Investment Analysis to the Original Agreement, and (ii) sets forth the transaction fees applicable to Customer's use of Paciolan software licensed under the Original Agreement, as amended by this Amendment. The transaction fees set forth in the Supplemental Investment Analysis supplement, amend and restate the transaction fees (Service Fees/e.Venue Services Fees) in the Investment Analysis to the Original Agreement, including Schedule 1 to Amendment No.1, effective as of the Amendment Effective Date. Accordingly, Customer shall pay to Paciolan the transaction fees set forth in the Supplemental Investment Analysis in accordance with the terms of the Original Agreement, as amended by this Amendment, effective as of the Amendment Effective Date. For the avoidance of doubt, Customer shall continue to pay the transaction fees (Services Fees) set forth in the Original Agreement, including Schedule 1 to Amendment No.1, until the Amendment Effective Date. Customer shall continue to pay the periodic fees set forth in the Original Agreement, including, but not limited to, the annual fees, set forth therein, including, but not limited to, a pro-rated portion of its annual fees equal to \$12,917 on May 1, 2012 and an annual fee of \$77,500 on July 1, 2012. The Paciolan software provided under the Original Agreement, as amended by this Amendment, shall be in object code form only.

2. **Term.** Notwithstanding anything to the contrary set forth in the Original Agreement, the term of the Original Agreement, as amended by this Amendment, shall continue until June 30, 2013 ("Initial Term") and may be renewed for subsequent periods by mutual written agreement of the parties (each a "Renewal Term"). The Initial Term, together with any Renewal Terms, is referred to herein as the "Term".

Section 5(G) of the e.Venue Addendum set forth on Exhibit C to Amendment No.1 shall be amended and restated in its entirety as follows:

"Customer shall use the e.Venue software in conjunction with the other Paciolan software licensed to Customer during the term of the Agreement. Notwithstanding anything to the contrary herein, the "Agreement" shall mean the System Purchase Contract dated March 6, 1998, including all amendments thereto, between the parties."

3. **Limitation of Liability of Paciolan.** TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW, IN NO EVENT WILL PACIOLAN BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOST PROFITS, LOSS OF GOOD WILL OR DAMAGES RESULTING FROM LOSS OF USE OR LOSS OF CONTENT OR DATA, HOWEVER CAUSED, WHETHER IN AN ACTION IN CONTRACT OR TORT OR OTHERWISE, EVEN IF PACIOLAN HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW, PACIOLAN'S LIABILITY UNDER THE ORIGINAL AGREEMENT, AS AMENDED BY THIS AMENDMENT, SHALL BE LIMITED TO TWO (2) TIMES THE TOTAL AMOUNT OF PAYMENTS PAID BY CUSTOMER TO PACIOLAN DURING THE TWELVE (12) MONTHS PRECEDING SUCH LIABILITY.

4. **Exclusive Use.** Customer agrees to use the Paciolan software and ticketing system, during the Term, as Customer's exclusive source for primary and secondary ticketing by Customer or any third party affiliate, including, but not limited to, (i) selling, reselling or distributing tickets, including applications for selling, reselling or distributing tickets, to all events owned, held, managed or operated by Customer, (ii) supporting the sale, resale and distribution of tickets to all such events, and (iii) tracking and authenticating tickets sold or otherwise distributed to all such events. Accordingly, Customer shall not directly or indirectly: (i) advertise, promote, market, endorse or sponsor, or allow, permit or authorize any third party to advertise, promote, market, endorse or sponsor, any third party that provides primary or secondary ticketing services for the sale, resale or distribution of tickets; or (ii) allow, permit or authorize any of Customer's media properties, including, but not limited to, web sites, radio, newspapers, television and any other online and offline media outlets, to be used in connection with any of the activity described in clause (i) of this sentence.

5. **Payment Terms.** Customer will pay to Paciolan the minimum annual service fees (the "Minimum Annual Fees") specified in the Supplemental Investment Addendum hereto, if any. The Minimum Annual Fee period will begin on July 1<sup>st</sup> of each year and end on June 30<sup>th</sup> of the following year. If, at the end of an annual period, the total fees subject to a Minimum Annual Fee requirement paid by Customer to Paciolan during such annual period be less than the amount of the specified Minimum Annual Fee, Paciolan will invoice Customer the balance remaining after subtracting the actual fees subject to a Minimum Annual Fee requirement paid to Paciolan during the period from the specified Minimum Annual Fee amount. Invoices are due and payable on receipt and will be past due if Paciolan does not receive full payment within a period of thirty (30) days from date of the invoice.

6. **Hosted Services.** The fifth line of the "Other Included Products and Services" section of the Hosting Services Addendum (Exhibit A) to Amendment No.2 shall be amended and restated in its entirety as follows:

"Services associated with configuration and testing for CA over IP to Customer's current payment processor."

7. **Prohibition on Hiring Illegal Immigrants.** Tennessee Public Chapter No. 878 of 2006, TCA 12-4-124 requires that Paciolan attest in writing that Paciolan will not knowingly utilize the services of illegal immigrants in the performance of the Original Agreement, as amended by this Amendment, and will not knowingly utilize the services of any subcontractor, if permitted under the Original Agreement,

who will utilize the services of illegal immigrants in the performance of the Original Agreement, as amended by this Amendment. The attestation shall be made on the form, Attestation re Personnel Used in Contract Performance (the "Attestation"), which is attached and hereby incorporated as **Exhibit B**.

If Paciolan is discovered to have breached the Attestation, the Commissioner of Finance and Administration shall declare that Paciolan shall be prohibited from contracting or submitting a bid to any Tennessee Board of Regents institution or any other state entity for a period of one (1) year from the date of discovery of the breach. Paciolan may appeal the one (1) year by utilizing an appeals process in the Rules of Finance and Administration, Chapter 0620.

All exhibits attached hereto are incorporated herein by reference. Except as amended by this Amendment, all other terms and conditions set forth in the Original Agreement, including Amendment No.1 and Amendment No.2, shall remain in full force and effect. If there is any conflict between the terms of this Amendment and the Original Agreement, then the terms of this Amendment shall prevail.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed and do each hereby represent that their respective signatory whose signature appears below has been and is on the Amendment Effective Date duly authorized by all necessary and appropriate corporate action to execute this Amendment.

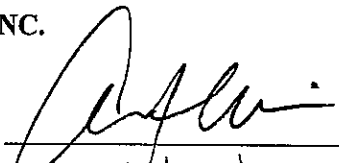
**PACIOLAN, INC.**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

  
Amit Kothari  
CFO  
7-26-07

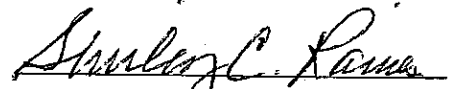
**UNIVERSITY OF MEMPHIS**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

  
SHIRLEY C. RAINES  
PRESIDENT  
7/30/07

**TENNESSEE BOARD OF REGENTS**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A**  
**Supplemental Investment Analysis**

TRANSACTION FEES					
Description	7/1/08 - 6/30/09	7/1/09 - 6/30/10	7/1/10 - 6/30/11	7/1/11 - 6/30/12	7/1/12 - 6/30/13
<b>Single Ticket or Value/Misc. Item (1)</b>					
Per Price of Ticket or Value/Misc. Item Sold via e.Venue	7.0%	7.0%	7.0%	7.0%	7.0%
Minimum Fee Per Ticket or Value/Misc. Item	\$1.00	\$1.00	\$1.00	\$1.00	\$1.00
Maximum Fee Per Ticket or Value/Misc. Item	\$2.50	\$2.60	\$2.70	\$2.80	\$3.00
<b>Item Packages (2)</b>					
Maximum Fee Per an Item Package	\$30.00	\$30.00	\$30.00	\$30.00	\$30.00
<b>New Combo / Multiple Event Items / Season Tickets (3)</b>					
Per Combo / Multiple Event Item Sold via e.Venue	\$6.00	\$6.00	\$6.00	\$6.00	\$6.00
<b>Student Season Tickets</b>					
Per Combo / Multiple Event Item Sold via e.Venue	\$6.00	\$6.00	\$6.00	\$6.00	\$6.00
<b>Renewals / Application Packages (4)</b>					
Per Season Renewal Order or Application processed via e.Venue (Note - includes 1st payment processed)	\$6.00	\$6.00	\$6.00	\$6.00	\$6.00
<b>Payment Plan Options</b>					
Per additional payments processed via e.Venue	\$3.00	\$3.00	\$3.50	\$3.50	\$3.50
<b>Online Donation Processing</b>					
Per Transaction Value processed via e.Venue	5.0%	5.0%	5.0%	5.0%	5.0%
Minimum Fee Per Transaction	\$1.00	\$1.00	\$1.00	\$1.00	\$1.00
Maximum Fee Per Transaction	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00
<b>Electronic Transfer</b>					
Per Single Ticket transfer processed via e.Venue	\$1.00	\$1.00	\$1.00	\$1.00	\$1.00
<b>Electronic Returns</b>					
Per Single Ticket returns processed via e.Venue	\$0.50	\$0.50	\$0.50	\$0.50	\$0.50
<b>e.Check Transactions</b>					
Per Check electronically processed	\$4.00	\$4.00	\$4.00	\$4.00	\$4.00
<b>Electronic Ticket / Item Delivery from e.Venue and Back Office System (5)</b>					
Per Order utilizing Print at Home	\$1.50	\$1.50	\$1.50	\$1.50	\$1.50
Per Order utilizing Patron ID Card/Device	\$1.50	\$1.50	\$1.50	\$1.50	\$1.50
<b>e.Venue Minimum Annual Fee (6)</b>	\$24,000	\$24,000	\$24,000	\$24,000	\$24,000
<b>Integrated Group Ticket Window</b>					
Per Ticket (includes electronic ticket delivery)	\$1.50	\$1.50	\$1.50	\$1.50	\$1.50
Minimum Annual Fees (6)	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500
<b>Integrated Ticket Market Place</b>					
Per Total Cost to Buyer (7)	15.0%	15.0%	15.0%	15.0%	15.0%
Per Price of Membership Sold (8)	25.0%	25.0%	25.0%	25.0%	25.0%
Minimum Fee Per Membership	\$6.00	\$6.00	\$6.00	\$6.00	\$6.00
Minimum Annual Fees (6)	\$0	\$5,000	\$7,500	\$7,500	\$7,500
<b>Web-Based Sales Terminal</b>					
Per Ticket or Value Item transacted through a Web-Based Sales Terminal	\$1.00	\$1.00	\$1.00	\$1.00	\$1.00
WBST Minimum Annual Fee (6)	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000
NOTE: An additional fee would apply for the installation and setup of WBST.					
1 Per Ticket or Value Item Fee is based on the purchase price of each Ticket or Value Item transacted through e.Venue including non-ticket items such as merchandise. Zero-priced items sold through e.Venue will be charged the minimum fee for the item type.					
2 Single Ticket or Value/Misc. Item fees apply to each item within an Item Package, up to the Maximum Fee Per an Item Package.					
3 Per Combo/Multiple Event Items Fee is based on the purchase price of each Combo/Multiple Event Item (including New Season or Subscription Tickets, Multiple Event Items, Mini Plans, and Designer Series) transacted through e.Venue. Fees will be applied per Combo Item, not per the number of events each combo item represents. Additional Tickets or Value Items sold in conjunction with a Combo Item will be charged at the applicable single Ticket or Value Item rate.					
4 Additional Tickets or Value Items (i.e., items not being renewed) sold on application will be charged at the applicable single Ticket or Value Item rate.					
5 Fees apply to orders assigning items to an electronic delivery method.					
6 Minimum Annual Fee period will begin on July 1st and end on June 30th of each year, prorated from date site is implemented.					
7 Fee applies to total purchase price charged to buyer including ticket price and related fees paid by buyer					
8 Applies to membership fees charged to patrons for right to purchase items on Ticket Marketplace or Suite Marketplace					

**EXHIBIT B**  
**Attestation**

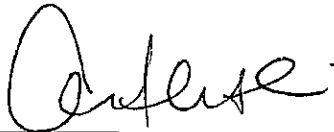
ATTACHMENT 1

ATTESTATION RE PERSONNEL USED IN CONTRACT  
PERFORMANCE

CONTRACT NUMBER:	Amendment # 3
CONTRACTOR LEGAL ENTITY NAME:	Paciolan, Inc.
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	95-3518417

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.

SIGNATURE &  
DATE:



NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. If said individual is not the chief executive or president, this document shall attach evidence showing the individual's authority to contractually bind the Contractor.



**GENERAL ASSEMBLY OF THE STATE OF TENNESSEE  
FISCAL REVIEW COMMITTEE**

320 Sixth Avenue, North - 8<sup>th</sup> Floor  
NASHVILLE, TENNESSEE 37243-0057  
615-741-2564

**Rep. Charles Curtiss, Chairman**

**Representatives**

Curt Cobb	Donna Rowland
Curtiss Johnson	David Shepard
Gerald McCormick	Curry Todd
Mary Pruitt	Eddie Yokley
Craig Fitzhugh, <i>ex officio</i>	
Speaker Jimmy Naifeh, <i>ex officio</i>	

**Sen. Douglas Henry, Vice-Chairman**

**Senators**

Doug Jackson	Reginald Tate
Bill Ketron	Jamie Woodson
Paul Stanley	
Randy McNally, <i>ex officio</i>	
Lt. Governor Ron Ramsey, <i>ex officio</i>	

**M E M O R A N D U M**

**TO:** The Honorable Dave Goetz, Commissioner  
Department of Finance and Administration

**FROM:** Charles Curtiss, Chairman, Fiscal Review Committee *CC*  
Bill Ketron, Chairman, Contract Services Subcommittee *BK*

**DATE:** April 24, 2007

**SUBJECT:** Contract Comments  
(Contract Services Subcommittee Meeting 4/23/07)

**RFS#** N/A

**Department:** Tennessee Board of Regents

**Division:** University of Memphis

**Contractor:** Paciolan, Inc.

**Summary:** Vendor will be responsible for providing the hardware, software, and maintenance services related to the existing athletic department ticketing system. This is a five-year contract, effective when signed.

**Maximum liability:** \$305,555

**Maximum liability with amendment:** \$815,555

After review, the Fiscal Review Committee voted to recommend approval of the contract.

**cc:** Dr. Charles Manning, Chancellor, Board of Regents  
Ms. Angela Gregory, Director of Purchasing & Contracts



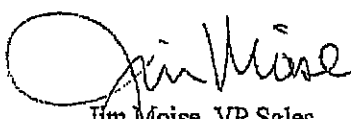
January 26, 2007

Paciolan, Inc. is the manufacturer and sole supplier of its products.

University of Memphis provides ticketing and donor services for Athletic events through the use of the Paciolan system. An enhancement to the capabilities of the system is necessary to provide the maximum customer service to our alumni and donors. Memphis has used ticketing and donor systems manufactured and supported by Paciolan for over 23 years to meet its needs, both as a turnkey solution for ticketing and to manage donor records. Memphis needs to improve online ticketing services while maintaining the existing Paciolan ticketing infrastructure to ensure continuity of its donor operations.

The Paciolan infrastructure currently utilized by Memphis includes a rating program – an integrated program that calculates a numerical ranking for each patron based on support of Memphis Athletics through charitable gifts, ticket purchases, longevity, referrals, volunteerism, and returned tickets. This is a custom program designed by Memphis Athletics and created by Paciolan uniquely for our requirements and formula. The design, testing, implementation, further testing and final approval of this program required extensive manual updates to include historical records. Paciolan is the sole provider of this program, which includes historical information and is totally integrated with the existing fundraising software.

Paciolan is the only vendor that can provide the above integration to the University of Memphis donor records.



Jim Moise, VP Sales  
Paciolan, Inc.



Copy

**AMENDMENT No. 2  
TO THE  
SYSTEM PURCHASE CONTRACT  
BETWEEN PACIOLAN, INC.  
AND  
UNIVERSITY OF MEMPHIS**

This Amendment No. 2 ("Amendment") to the System Purchase Contract executed on May 25, 1999, as amended ("Original Agreement") is entered into effective as of April 30, 2007 ("Amendment No. 2 Effective Date") by and between PACIOLAN, INC., a Delaware corporation ("Paciolan"), and the UNIVERSITY OF MEMPHIS ("Customer").

**Background**

WHEREAS, Paciolan and Customer previously amended the Original Agreement under that certain Amendment No. 1 effective June 30, 2003 ("Amendment No. 1"); and

WHEREAS, Paciolan and Customer now wish to amend and supplement the Original Agreement to provide new hardware, software, professional services, and hosting services, as well as specify the applicable costs.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree to further modify the Original Agreement as set forth in this Amendment.

**Original Agreement Amendments**

1. **Hosting Services.** Paciolan shall provide to Customer hosting services as set forth on **Exhibit A.**

2. **Supplemental Investment Analysis.** The Supplemental Investment Analysis attached hereto as **Exhibit B** supplements the Investment Analysis to the Original Agreement, as amended by Amendment No. 1. The Supplemental Investment Analysis contains the listing of new hardware, software, and professional services being provided to Customer under this Amendment. Notwithstanding anything to the contrary in the Original Agreement, all Software shall be provided in object code only.

3. **Fee and Payment Terms.** The fees for Paciolan to provide the new hardware, software, professional services, and hosting services are attached hereto as **Exhibit C.** The maximum liability to the Customer under this Amendment shall not exceed \$510,000.00.

4. **Term.** The Original Agreement is hereby amended to include the following language which is provided in lieu of, and supersedes, any conflicting language in the Original Agreement:

"The term shall begin on the effective date hereof and shall continue through the five (5) year anniversary of the Amendment No. 2 Effective Date."

5. **Defense Against Claims.** The following language shall be added to this Section: "No cost or expenses shall be incurred for the account of CUSTOMER without its written consent. The Attorney General for the State of Tennessee reserves the right to participate in the defense of any such action. CUSTOMER shall not be liable for any award or judgment against CUSTOMER or the State of Tennessee reached by compromise or settlement unless CUSTOMER accepts the compromise or accepts

the settlement. CUSTOMER shall have the right to enter into negotiations for the right to effect settlement or compromise of any such action, but no such settlement or compromise shall be binding upon CUSTOMER and the State of Tennessee unless approved by the Attorney General".

6. **Limitation of Liability.** The second sentence of this Section shall be amended to read: "To the maximum extent allowed by applicable law: Paciolan is not liable for any indirect, special, or consequential damages arising out of the use of any of the components or services covered by this contract".

7. **Settlement of Disputes.** This Section is deleted in its entirety.

8. All exhibits attached hereto are incorporated herein by reference. Except as amended by this Amendment, all other terms and conditions set forth in the Original Agreement, as amended by Amendment No. 1, including the defined terms, shall remain in full force and effect. If there is any conflict between the terms and conditions of this Amendment and the Original Agreement, as amended by Amendment No. 1, then the terms and conditions of this Amendment shall prevail.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed and do each here by represent that their respective signatory whose signature appears below has been and is on the Amendment Effective Date duly authorized by all necessary and appropriate corporate action to execute this Amendment.

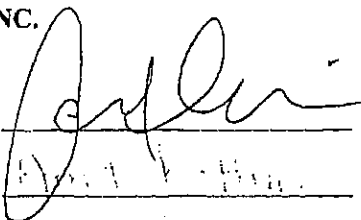
PACIOLAN, INC.

Signature:

Name:

Title:

Date:

  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

REVIEWED  
AS TO LEGAL FORM & CONTENT  
WJM @ vom  
OFFICE OF LEGAL COUNSEL  
3/28/07  
DATE

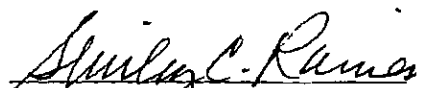
UNIVERSITY OF MEMPHIS

Signature:

Name:

Title:

Date:

  
\_\_\_\_\_  
SHIRLEY C. RAINES  
\_\_\_\_\_  
PRESIDENT  
\_\_\_\_\_  
3/28/07  
\_\_\_\_\_

TENNESSEE BOARD OF REGENTS

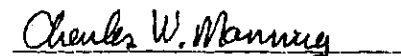
Approved:

Signature:

Name:

Title:

Date:

  
\_\_\_\_\_  
Charles W. Manning  
\_\_\_\_\_  
Chancellor  
\_\_\_\_\_  
4-30-07  
\_\_\_\_\_

## **Exhibit A**

### **Hosting Services**

#### **Data Center and Services**

- Paciolan shall, at its sole expense maintain a central computer facility ("Data Center") at such location as it shall deem necessary for the operation of the ticketing system.
- Paciolan's Data Center is designed to have 7x24 availability with the exception of planned downtime for system upgrades and/or periodic maintenance that will be needed to ensure effective performance of the system and applications. These activities will require the hosting service not be available to the client or external users for the duration of the maintenance or upgrade activity.
- Standard periodic maintenance will generally be performed during a standard maintenance window between 12:00AM and 4:00AM, Customer local time.
- Paciolan will provide Customer 72 hours advance notice for maintenance activities that will be performed outside the standard maintenance window and which will affect system availability. Paciolan will make all reasonable efforts to accommodate Customer's system availability needs outside of the standard maintenance window.
- Paciolan will make all reasonable efforts not to disrupt Customer business operations during system upgrades and will work with Customer to determine a mutually agreeable timeframe for such upgrades.
- Paciolan is responsible for system administrative activities including the following:
  - AIX and Universe administration
  - Software maintenance
  - Hardware maintenance and upgrades as needed
  - Daily backups of critical data
  - Active monitoring of system availability and responsiveness
  - System health checks and troubleshooting of system and network issues
  - Database recovery necessitated due to hardware or software issues
- Capacity planning and system load monitoring
- Scalability for large events

#### **Security**

- Remote system access is controlled via redundant firewalls.
- Controlled physical access to the Data Center with access limited to selected members of the Paciolan technical services team.
- Managed system administration level access is limited to key, qualified Paciolan team members.
- Daily data backups will be stored in a secure location separate from the Data Center.

#### **Other Included Products and Services**

- Server hardware located in Paciolan's Data Center sized to support Customer's ticketing operations.
- Secure data communications via a Paciolan-managed VPN between the customer's Local Area Network and Paciolan's Data Center. Client is responsible for maintaining local Internet connections meeting minimum bandwidth requirements.
- Software upgrades for licensed copies of t.Res, t.Fund and t.Credit, will be provided as made generally available to hosted customers, but not more than once per year during the term of the Original Agreement as amended.
- Any third-party software listed on the Supplemental Investment Analysis attached to this Amendment for no additional charge.
- Services associated with configuration and testing for frame relay credit authorization to Customer's current payment processor.
- Software maintenance support package.

**For the purpose of clarity, the following additional products, services, costs and fees are not included in the costs set out on Exhibit C:**

- Custom programming
- Additional training or consulting services requested during the term of the Original Agreement.

## Exhibit B

### Supplemental Investment Analysis

HARDWARE, SOFTWARE AND PROFESSIONAL SERVICES	
Qty	Description
	<b>HARDWARE</b>
1	Lantronix ESP2-100 Print Server
2	PSI-25S Cable
2	Lantronix Lightwave Network Adapter (PN 200.2066A)
2	Cisco 871-K9 Router - if required
32	Personal Computer <span style="float: right;">Supplied by Customer</span> Minimum PC Requirements: Windows XP or 2000 Professional, 1.5GHz Pentium CPU CPU (Pentium 4 - 2.8GHz recommended for Enterprise Ticketing Terminal or WBST), 512MB RAM (1GB for Enterprise Ticketing Terminal or WBST), 2GB Free Disk Space, Network Interface Card, XGA or better video card and monitor, 2 USB ports, parallel and serial port
	<b>SOFTWARE</b>
	<b>Applications Software</b>
1	t.Res Software License
1	Paciolan Client Software for use with Seat Map
1	t.Credit Software License
1	t.Fund Software License
1	e.Venue Software License
32	SB+ Client Windows/GUI Emulation Software Licenses v5.3.3
	<b>Operating System Products</b>
32	SB Runtime Upgrade (Server Edition) Release v5.3.3
32	UniVerse version v10.0.11 DBMS Release Update
	<b>Third-Party Application Software</b>
1	SDC Protobase eXpress High-Speed SofTrans Module - PB eXpress Fee 1st Location/Merchant ID) - PB eXpress Set Up Fee
1	Additional SDC Protobase eXpress High Speed SofTrans License - PB eXpress Monthly Service Add'l Location/Merchant ID)
2	SDC Site Activation Fee (1 Site Activation required per Location/Merchant ID)
	<b>SUBSCRIPTION SERVICES</b>
	<b>CA over IP Service</b>
1	CA over IP Monthly Service
	<b>PACMail</b>
1	Service
	<b>Service Program</b>
32	Users, Premium Service Program (t.Res, t.Credit, t.Fund)

**HARDWARE, SOFTWARE AND PROFESSIONAL SERVICES continued**

<b>Qty</b>	<b>Description</b>
	<b>PROFESSIONAL SERVICES</b>
1	Hosted Services Setup Project Management RS/6000 Setup, Configuration and Testing Communication to LAN Setup and Testing Communication to CA processor Setup and Testing
	<b>t.Res Conversion (TX2-t.Res)</b>
2	Day(s), Project Management
1	Day(s), Software Installation and Conversion
1	Day(s), SB+ Client Installation (up to 24 PCs)
0	Day(s), Custom Program Rebuild (ESTIMATE)
	Day(s), Rebuild Custom Crystal Reports (ESTIMATE)
5	Day(s), Installation/Training - t.Res
	<b>t.Fund Conversion (SG-t.Fund)</b>
5	Day(s), SG to t.Fund Conversion
5	Day(s), Installation/Training t.Fund
5	Day(s), Priority Points Programming
	<b>t.Credit Implementation and Training Services</b>
1	Day(s), t.Credit Applications Training
1	CA over IP Installation
1	Professional Services Credit - Amendment No. 1 6/30/03
	<b>e.Venue Services</b>
1	e.Venue v6.8 Upgrade Standard Site Upgrade Software Configuration & Installation Project Management Set-up & Configuration for Monitoring Services
	<b>PACMail</b>
1	PACMail Implementation

## Exhibit C

### FEE AND PAYMENT TERMS

FEE	
<b>TOTAL FEES</b> (defined below)	<b>\$510,000</b>
<b>PAYMENT TERMS</b>  Year 1 <u>DUE on the Amendment Effective Date</u> Hosting of Server, High Speed Credit Authorization in PCI compliant environment, and PACMail: \$44,373 Maintenance of Server, Software in Hosting Facility (including upgrades): \$105,627 Software License Fee for t.Res, t.Fund, t.Credit, e.Venue and PACMail Software (including upgrades): \$50,000  Year 2 <u>DUE on the First (1<sup>st</sup>) anniversary of the Amendment Effective Date</u> Hosting of Server, High Speed Credit Authorization in PCI compliant environment, and PACMail: \$44,373 Maintenance of Server, Software in Hosting Facility (including upgrades): \$33,127 Hardware provided Print Server, Router, Cables, Network Adapter: Included  Year 3 <u>DUE on the Second (2nd) anniversary of the Amendment Effective Date</u> Hosting of Server, High Speed Credit Authorization in PCI compliant environment, and PACMail: \$44,373 Maintenance of Server and Software in Hosting Facility (including upgrades): \$33,127  Year 4 <u>DUE on the Third (3rd) anniversary of the Amendment Effective Date</u> Hosting of Server, High Speed Credit Authorization in PCI compliant environment, and PACMail: \$44,373 Maintenance of Server and Software in Hosting Facility (including upgrades): \$33,127  Year 5 <u>DUE on the Fourth (4th) anniversary of the Amendment Effective Date</u> Hosting of Server, High Speed Credit Authorization in PCI compliant environment, and PACMail: \$44,373 Maintenance of Server and Software in Hosting Facility (including upgrades): \$33,127	<div style="text-align: right;"> <b>\$200,000</b> </div> <div style="text-align: right;"> <b>\$77,500</b> </div> <div style="text-align: right;"> <b>\$77,500</b> </div> <div style="text-align: right;"> <b>\$77,500</b> </div> <div style="text-align: right;"> <b>\$77,500</b> </div>

**AMENDMENT NO. 1  
TO THE  
SYSTEM PURCHASE CONTRACT  
BETWEEN PACIOLAN, INC.  
AND  
UNIVERSITY OF MEMPHIS**

This Amendment No. 1 (the "Amendment") is entered into effective as of June 30, 2003 ("Effective Date") to that certain System Purchase Contract entered into March 6, 1998 (the "Agreement") by and between PACIOLAN, INC., a California corporation with a principal place of business at 17305 Von Karman Avenue, Irvine, CA 92614 ("Paciolan") and the UNIVERSITY OF MEMPHIS, with a principal place of business at MEMPHIS TN 38152 ("Customer").  
560 N. ORNL

WHEREAS, Paciolan and Customer wish to amend the Agreement, as specified below.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree to modify the Agreement as set forth in this Amendment.

1. All terms and conditions of the Agreement, including the definitions, are hereby incorporated into the Amendment by reference herein, and the same meaning shall be ascribed to them.
2. There is hereby added to the Hardware section of the Investment Analysis of the Agreement, the Hardware set forth in Exhibit A.
3. There is hereby added to the Software section of the Investment Analysis of the Agreement, the Software set forth in Exhibit A.
4. There is hereby added to the Professional Services section of the Investment Analysis of the Agreement, the Professional Services set forth in Exhibit B.
5. There is hereby added to the Agreement, the e.Venue Addendum set forth in Exhibit C.
6. Within (24) months of the Effective Date, Paciolan and Customer shall mutually agree to an implementation schedule for the Hardware set forth in Exhibit D. Upon such mutual agreement, there is hereby added to the Hardware section of the Investment Analysis of the Agreement, the Hardware set forth in Exhibit D.
7. Within (24) months of the Effective Date, Paciolan and Customer shall mutually agree to an implementation schedule for the Software set forth in Exhibit D. Upon such mutual agreement, there is hereby added to the Software section of the Investment Analysis of the Agreement, the Software set forth in Exhibit D.
8. Within (24) months of the Effective Date, Paciolan and Customer shall mutually agree to an implementation schedule for the Professional Services set forth in Exhibit E. Upon such mutual agreement, there is hereby added to the Professional Services section of the Investment Analysis of the Agreement, the Professional Services set forth in Exhibit E.

9. Customer shall pay to Paciolan the fees by the due dates as set forth in Exhibit F.
10. Paciolan warrants that no part of the total contract amount provided herein shall be paid directly or indirectly to any officer or employee of the Customer or the State of Tennessee as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor, or consultant to Paciolan in connection with any work contemplated or performed relative to this Agreement.
11. Paciolan and its subcontractors are required to comply with Title VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, Executive Order 11, 246, and 38 U.S.C. Section 4212, along with the related regulations and reporting requirements of each. Neither party shall discriminate against any individual including, but not limited to, employees or applicants for employment and/or students because of race, religion, creed, color, sex, age, disability, veteran status, or national origin. Further, the parties also agree to take affirmative action to ensure that applicants are employed and that employees are treated during the employment without regard to their race, religion, creed, color, sex, disability or veteran status. Such action includes, but not limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

Except as modified by this Amendment, all other terms and conditions set forth in the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed and do each hereby warrant and represent that their respective signatory whose signature appears below has been and is on the Effective Date of this Amendment duly authorized by all necessary and appropriate corporate action to execute this Amendment.

**PACIOLAN, INC.**  
Signature: [Signature]  
Name: ROBERT DROBISIT  
Title: SVP SALES & MARKETING  
Date: 6/30/03

Customer: UNIVERSITY OF MEMPHIS  
Signature: [Signature]  
Name: CANTY ROBBINS  
Title: DIRECTOR, PURCHASING  
Date: 6-27-03



## Exhibit A

Qty	Description (Phase 1)	Unit Price	Ext Price	QSC
<b>HARDWARE</b>				
1	IBM RS/6000 F50 (w/ 2-Way 332MHz Processor, 192MB Memory):	Existing	Existing	
8	256MB (2X128) Memory Add-on (total 2.2GB) - FC4110	\$455	\$3,640	
1	Additional 9.1GB Disk Drive - FC2913	\$715	\$715	
1	Additional 16-Port Carrier Card - FC 4093	\$520	\$520	
<b>Hardware - Point-of-Sale</b>				
25	Personal Computer		Supplied by Customer	
2	Zoom External 33.6 Fax Modem Kit (for Credit Authorization)#	\$125	\$250	*
7	BOCA Mini+ Ticket Printer	Existing	Existing	
3	Intermec MagScan Wedge Credit Card Swipe w/Cable Set & Module	\$395	\$1,185	*
1	Intermec Light Pen (for swiper configuration)	\$185	\$185	*
1	Okidata 320 Turbo Transaction Logging Printer	\$610	\$610	*
<b>e.Venue Hardware</b>				
1	Sonic Wall Tele3 VPN Client	\$495	\$495	*
<b>Total Hardware</b>			<b>\$7,600</b>	
<b>SOFTWARE</b>				
<b>Applications Software</b>				
1	TX2 (Ticketing) Software	N/C	N/C	**
1	CA (Credit Authorization) Software	\$10,000	\$10,000	**
1	e.Venue Software License Base Fee	N/C	N/C	N/A
1	Accuterm 2000 Site License Upgrade	\$350	\$350	
<b>Third-Party Application Software</b>				
1	ProtoBase Multiuser Software (includes SDC SofTrans and 1 Merchant ID)	Included	Included	N/A
3	SDC MultiMerchant Module (Additional Merchant ID)	\$595	\$1,785	N/A
4	SDC Site Activation Fee (1 Site Activation required per Merchant ID)	\$200	\$800	N/A
<b>Operating System Products</b>				
1	Unlimited User IBM AIX 4.3.2 Operating System License	Existing	Existing	N/A
1	32-User UniVerse version 9.5.1.4 DBMS Release	Existing	Existing	N/A
<b>Total Software</b>			<b>\$12,935</b>	
<p>N/C - No Additional Charge    N/A - Not Applicable</p> <p>QSC - Manufacturer's Quarterly Service Charge</p> <p># Each modems will require a separate, dedicated phone line</p> <p>* Refer to Paciolan Supported Products section for maintenance and warranty information. Customer is responsible for procuring maintenance services directly from manufacturer or third party provider.</p> <p>** Software Maintenance for Premium Level with 32users, TX2, SG, and CA will be 10,255 per quarter.</p>				

## Exhibit B

Qty	Description (Phase I)	Unit Price	Ext Price	QSC
<b>PROFESSIONAL SERVICES***</b>				
<b><u>TX to TX2 Conversion</u></b>				
1	Day(s) Project Management	\$1,600	\$1,600	N/A
3	Day(s), Remote Requirements Analysis	\$1,600	\$4,800	N/A
16	Basic Season Conversion	\$350	\$5,600	N/A
6	Detail In-Depth Season Conversion (1-6)	\$1,500	\$9,000	N/A
10	Day(s), Training (ESTIMATE)	\$1,400	\$14,000	N/A
1	Day(s), Custom Program Rebuild (ESTIMATE)	\$1,600	\$1,600	N/A
3	Day(s), Request Rebuild (ESTIMATE)	\$1,400	\$4,200	N/A
2	Day(s), Facility Map Building Training (ESTIMATE)	\$1,400	\$2,800	N/A
<b><u>Credit Authorization</u></b>				
1	Day(s), Project Management	\$1,600	\$1,600	N/A
1	Day(s), System Set-Up @ Paciolan	\$1,600	\$1,600	N/A
1	Day(s), CA Training and Consultation	\$1,400	\$1,400	N/A
1	Day(s), CA/POS Set-up	\$1,400	\$1,400	N/A
<b><u>e.Venue</u></b>				
8	Day(s), Project Management	\$1,600	\$12,800	N/A
4	Day(s), System Installation and Configuration	\$1,600	\$6,400	N/A
6	Day(s), HTML - Standard Site Build	\$1,600	\$9,600	N/A
1	Print at Home Initial Template Build (1 Template)	\$800	\$800	N/A
2	Day(s), Post Installation	\$1,600	\$3,200	N/A
3	Day(s), e.Venue Training	\$1,600	\$4,800	N/A
<b>Total Services</b>			<b>\$87,200</b>	
<p>N/C - No Additional Charge</p> <p>N/A - Not Applicable</p> <p>QSC - Manufacturer's Quarterly Service Charge</p> <p>*** All services are estimates and based on 8-hour day, plus expenses (refer to Services Policies document).</p> <p>Travel expenses (airfare, meals, lodging, etc.) will be billed to customer as incurred.</p> <p>Unused training and consultation days will be credited to future service purchases.</p>				

## Exhibit C

### E.VENUE ADDENDUM

The subject of this addendum ("e.Venue Addendum") are the terms and conditions of Customer's use of the e.Venue product licensed by Customer under the terms of the Master System Purchase and Software License Agreement (the "Agreement"). This e.Venue Addendum is subject to and hereby incorporated into the Agreement. If any provision of this Addendum is in conflict with the Agreement, this e.Venue Addendum will prevail.

1. **e.Venue Software License Conditions.** The Paciolan e.Venue software licensed to Customer, including its system design and the programs that realize that design, is the sole property of Paciolan. Customer's right is in the use of the object code form of the Software during the term of Agreement provided that such use complies with the terms of the Agreement and this e.Venue Addendum.

2. **Web Site Services.** Paciolan will create and maintain at a location of its choosing, a Customer-branded Internet Site (the Web Site) for the benefit of the Customer. The Web Site will provide to Customer the functions reasonably required for Customer to transact to the public its Tickets, Value Items, payments, subscription orders and other items of value directly from the Customer's Paciolan ticketing software application through the e.Venue software. Paciolan will take the commercially reasonable steps to ensure that the Web Site is secure, functional and continually available to Customer and the public (subject to reasonable downtime for maintenance, upgrades and repairs). Paciolan will notify Customer of any scheduled maintenance that will make the Web Site unavailable to the Customer and/or the public and will take reasonable steps to schedule such maintenance at a time mutually convenient to Paciolan and Customer.

3. **Professional Services.** Included in the Agreement are the services for training, installation project management, customization services related to the installation and of the Web Site as detailed in the Professional Services section of the Investment Addendum and the Statement of Work.

4. **Customer Responsibilities.** Customer agrees to maintain and update its event and price information on its System to ensure maximum opportunity for transactions, provide and administer all credit card services used to complete transactions on the Web Sites and to monitor the Web Sites and to report to Paciolan the problems and anomalies encountered by it or its customers. In addition, Customer agrees to fulfill its responsibilities as detailed in the Statement of work.

5. **Terms and Conditions.** The following details the terms and conditions of the e.Venue software license and services provided under this e.Venue Addendum:

(A) **Service Fees.** Customer will pay Paciolan a service fee for each Ticket, Value Item, payment, or order transacted through the e.Venue system. These service fees are itemized in Schedule 1 attached hereto. Customer will be responsible to remit such fees to Paciolan on a monthly basis and as provided for in the Agreement.

(B) **Exclusive Use.** During the term of the Agreement, Customer agrees to use e.Venue Paciolan Software as its exclusive Internet commerce method of automated Ticket inventory allocation to the public or other third parties.

(C) **Attribution.** Customer shall provide attribution to Paciolan on each page of the Web Site. The attribution shall be in the form as follows:

©2003 Paciolan - All Rights Reserved

Paciolan reserves the right to modify this attribution from time to time during the term of this Agreement and update the attribution on the Web Site without out prior notice to the Customer. Paciolan will take reasonable measures to ensure that the attribution does not detract from the overall aesthetics of the Web Site.

(D) **Minimum Annual Fee.** Customer will guarantee to Paciolan the minimum annual e.Venue service fee (the e.Venue Minimum Annual Fee) specified in the Service Fee section of the Investment Addendum. For the term Customer's e.Venue license right, the e.Venue Minimum Annual Fee period will begin on July 1 of each year and end on June 30 of the following year. Should at the end of an annual period the total Service Fees paid by Customer to Paciolan be less than the amount of the e.Venue Minimum Annual Fee, Paciolan will invoice Customer, and Customer shall immediately pay to Paciolan, the balance remaining after subtracting the actual Service Fees paid to Paciolan during the period from the e.Venue Minimum Annual Fee amount. The e.Venue Minimum Annual Fee will be prorated on a daily basis for the period of time from the e.Venue Acceptance to June 30, 2003. In the event that the Agreement is terminated during a subsequent annual period, the e.Venue Minimum Annual Fee will be prorated based on a daily basis for the number of days elapsed in the period prior to the date of termination.

(E) Electronic Transfer of Funds. Customer hereby appoints Paciolan, and Paciolan hereby accepts such appointment, as its agent to make direct debits and credits of payments for collecting of those amounts related to purchases ("Purchases") from each person ("Consumer") who has agreed to make purchases through the e.Venue Software. Customer will submit data in the form required for the electronic debiting from each Consumer's bank deposits. Through the e.Venue Software, Customer will obtain from each participating Consumer necessary information in proper form authorizing automatic entries to such Consumer's bank to transfer payment amounts to Customer's bank deposit account. Customer agrees to use commercially reasonable efforts to provide that all data and entries are (a) in correct form, (b) contain true and accurate information, and (c) are fully submitted by the Consumer. Customer acknowledges that the federal automated clearing house rules make provisional any credit given for an entry until the financial institution crediting the account specified in the entry receives final settlement. Any such provisional entry shall be received by Customer's bank deposit account within five business days of Paciolan's receipt of correct Consumer data from Customer. If the financial institution does not receive final settlement, it is entitled to a refund from the Customer and the Consumer shall not be deemed to have paid the Customer. The e.Venue Software and Paciolan Software will maintain electronic records that are compliant

with federal automated clearing house rules for automated clearing house entries and Customer shall retain the electronic records for two (2) years after termination or revocation of such transaction.

(F) Compliance with Law. Customer and Paciolan shall be solely responsible for compliance with all laws and regulations whether federal, state or local, as well as any federal or regional automated clearing house rules applicable to automatic and electronic transfers of funds, including, without limitation, laws, regulations and rules governing correct authorizations by consumers, disclosures and notices required in connection with electronic funds transfers, and all necessary waivers and releases.

(G) Term of License. Customer shall have the right to use the e.Venue software in conjunction with the other Paciolan Software licensed to Customer until June 30, 2008. This right will automatically be renewed for one year at that time and on June 30<sup>th</sup> of each subsequent year or until either party gives written notice of its intention to terminate this e.Venue Addendum. Such notice will be provided, at a minimum, sixty (60) days in advance of the date of termination. Paciolan will have the right to modify its fees for the next contract period by giving written notice of such changes at least sixty (60) days prior to the e.Venue Addendum renewal date.

**PACIOLAN, INC.**  
Signature: [Signature]  
Name: Robert Drabish  
Title: SVP Sales & Marketing  
Date: 6/30/03

Customer: UNIVERSITY OF MEMPHIS  
Signature: [Signature]  
Name: Canty Robbins  
Title: - Director of Purchasing  
Date: 6-30-03

**SCHEDULE 1**  
**TRANSACTIONS**

Qty	Description	Service Fee
	<b>e.Venue Single Ticket or Item Transactions (1)</b>	
	Per Ticket or Item Fee	7%
	Minimum Per Ticket or Item Fee	\$1.00
	Maximum Per Ticket or Item Fee	\$2.50
	<b>e.Venue New/Renewal Order Packages (2)</b>	
	New Season Orders, Season Renewal Order Fees (Note - includes 1st payment processed)	\$6.00 each
	<b>e.Venue Payment Plan Options (3)</b>	
	Additional payments processed via e.Venue	\$3.00 each
	<b>e.Venue Online Donation Processing (4)</b>	5%
	Minimum Per Transaction	\$1.00
	Maximum Per Transaction	\$5.00
	<b>e.Venue Electronic Transfer (5)</b>	\$1.50 each
	Single ticket transfer processed via e.Venue	
	<b>e.Venue Electronic Returns (6)</b>	\$0.50 each
	Single ticket returns processed via e.Venue	
	<b>Print at Home Tickets or Items (7)</b>	\$0.50 each
	<b>Guaranteed e.Venue Minimum Annual Fee (8)</b>	\$24,000
	<p>1 Per Ticket or Item Fee is based on the purchase price of each Ticket or Item transacted through e.Venue. This includes single tickets, single items, combo items, and non-ticket items.</p> <p>2 New Season Orders, Season Renewal Orders, and Series Orders are based on the number of Applications completed through the e.Venue Broker. Per Ticket or Item fee will not apply to New Season Orders, Season Renewal Orders.</p> <p>3 Payment Plan Option allows for multiple payments through e.Venue.</p> <p>4 Online donation processing, minimum fee is \$1.00, maximum fee is \$5.00</p> <p>5 Per-ticket electronic transfer fee for all tickets transferred via e.Venue. This will be charged per ORDER until functionality allows a per ticket fee for transfers.</p> <p>6 Per-ticket electronic transfer return fee for all tickets transferred via e.Venue.</p> <p>7 Print at home price is per ticket or item printed.</p> <p>8 Minimum Annual Fee period will begin on July 1st and end on June 30th of each year.</p>	

# Exhibit D

Qty	Description	Unit Price	Ext Price	QSC
<b>Server Hardware - IBM Certified Refurbished</b>				
1	IBM RS/6000 pSeries Model 620 (7025-6F1): 2-Way 600MHz Processor, 2GB Memory, (2) 18.2GB Disk Mirrored, 128 Port Controller, 20/40GB 4mm Tape Drive, Ethernet Adapter, CD ROM, Graphics Adapter	\$30,875	\$30,875	\$1,050 *
1	G54 Monitor	Existing	Existing	
1	16-Port RAN	Existing	Existing	
1	Powerware 1500 KVA UPS	\$1,461	\$1,461	N/A *
5	20/40GB 4MM IBM Backup Tapes	\$32	\$160	N/A
			Supplied by Customer	
25	Personal Computer Minimum PC Requirements: Windows XP or 2000 Professional, 733MHz Pentium CPU, 256MB RAM, 2GB Free Disk Space, Network Interface Card, SVGA or better video card, SVGA or better compatible monitor			
<b>Total Hardware</b>			<b>\$32,496</b>	<b>\$1,050</b>
<b>SOFTWARE</b>				
<b>Applications Software</b>				
1	t.Res (Ticketing) Software	N/C	N/C	\$9,069
1	t.Fund (Fund Development) Software	N/C	N/C	**
1	t.Credit (Credit Authorization) Software	N/C	N/C	**
25	SB+ Client Windows/GUI Emulation Software Licenses	\$295	\$7,375	Included
<b>Operating System Products</b>				
1	AIX Media Fee (CD)	\$50	\$50	N/A
	Unlimited User IBM AIX 4.3.3 Operating System License:			
1	IBM Software Maintenance for AIX 4.3.3 Support (1-year term)#	\$950	\$950	N/A
1	IBM Software Maintenance for AIX 4.3.3 Subscription (1-year term)#	\$350	\$350	N/A
1	32-User UniVerse version 9.5.2.1 DBMS Release Update	N/C	N/C	N/A
<b>Total Software</b>			<b>\$8,725</b>	<b>\$9,069</b>
N/C - No Additional Charge				
N/A - Not Applicable				
QSC - Quarterly Service Charge				
* Customer is responsible for procuring maintenance services directly from manufacturer or third party provider. Refer to the Paciolan Support Document, Supported Products section for maintenance and warranty information.				
** Software Maintenance for Premium Level with 32 users, t.Res, t.Fund and t.Credit will be \$9,069 per quarter.				
# Mandatory IBM charges for AIX operating system.				

## Exhibit E

Qty	Description	Unit Price	Ext Price	QSC
<b>PROFESSIONAL SERVICES***</b>				
<b><u>Hardware Upgrade Services</u></b>				
1	Day(s), Project Management	\$1,600	\$1,600	N/A
2	Day(s), RS/6000 Configuration and Testing @ Paciolan	\$1,400	\$2,800	N/A
2	Day(s), RS/6000 Setup @ Customer Site	\$1,400	\$2,800	N/A
<b><u>t.Res conversion (TX2-t.Res)</u></b>				
1	Day(s), Project Management	\$1,600	\$1,600	N/A
1	Day(s), Software Installation and Conversion	\$1,400	\$1,400	N/A
1	Day(s), SB+ Client Installation (up to 24 PCs)	\$1,400	\$1,400	N/A
2	Day(s), Installation/Training - t.Res	\$1,400	\$2,800	N/A
1	e.Venue Communication Software Upgrade Fee	\$800	\$800	N/A
<b><u>t.Fund conversion</u></b>				
1	Day(s), Project Management	\$1,600	\$1,600	N/A
2	Day(s), Preparation and Analysis for FD conversion	\$1,600	\$3,200	N/A
1	Day(s), Software Installation and Conversion	\$1,400	\$1,400	N/A
5	Day(s), Setup and Training	\$1,400	\$7,000	N/A
3	Day(s), Request Rebuild (ESTIMATE)	\$1,600	\$4,800	N/A
	(this includes rebuilding of dictionaries and requests up to 5 reports)			
<b>Total Services</b>			<b>\$33,200</b>	

N/C - No Additional Charge

N/A - Not Applicable

QSC - Quarterly Service Charge

\*\*\* All services are estimates and based on 8-hour day, plus expenses (refer to Services Policies document).

Travel expenses (airfare, meals, lodging, etc.) will be billed to customer as incurred.

Unused training and consultation days will be credited to future service purchases.

Exhibit F

FEEES AND PAYMENT TERMS

FEEES		
(PHASE 1)		
HARDWARE		\$7,600
SOFTWARE		\$12,935
PROFESSIONAL SERVICES		<u>\$87,200</u>
	SUBTOTAL	\$107,735
	DISCOUNT	(\$10,774)
	TOTAL	<u>\$96,962</u>
	QUARTERLY SERVICE CHARGE	<u>\$10,255</u>
(PHASE 2)		
HARDWARE		\$32,496
SOFTWARE		\$8,725
PROFESSIONAL SERVICES		<u>\$33,200</u>
	SUBTOTAL	\$74,421
	DISCOUNT	(\$7,442)
	TOTAL	<u>\$66,979</u>
	QUARTERLY SERVICE CHARGE	<u>\$9,069</u>
PAYMENT TERMS		
(PHASE 1)		
	DUE on the Effective Date	<u>\$38,785</u>
	DUE Net 30 Days from the Effective Date	<u>\$29,088</u>
	DUE Net 60 Days from the Effective Date	<u>\$19,392</u>
	DUE Net 90 Days from the Effective Date	<u>\$9,696</u>
(PHASE 2)		
	DUE Net 30 Days from Shipment of Phase 2 Hardware	<u>\$26,792</u>
	DUE Net 60 Days from Shipment of Phase 2 Hardware	<u>\$20,094</u>
	DUE Net 90 Days from Shipment of Phase 2 Hardware	<u>\$20,094</u>





## Purchase Order

The University of Memphis

PURCHASING DEPARTMENT  
MEMPHIS TN 38152-0001

Phone: (901)678-2265

FAX: (901)678-2102

DATE	P.O. NUMBER
04/26/99	P903329
SEE REVERSE SIDE FOR SPECIAL INSTRUCTIONS	

TERMS	F.O.B.	QUOTE NO. / QUOTE DATE	EXPECTED DELIVERY DATE
N 30	Destination-Ppd/Add	JANE KLEINBURGER11/30/98	05/05/99
PURCHASING CONTACT	PHONE	REQUEST	DEPARTMENTAL / INTERNAL NO.
CLARK REESE	901/678-2353	R952138	*****
			VENDOR I.D. NO.
			V0000100070

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RPACIOLAN SYSTEMS INC  
2875 TEMPLE AVE  
LONG BEACH CA 90806-2212S  
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OTHE UNIVERSITY OF MEMPHIS  
ATHLETIC TICKET OFFICE  
115 AOB  
WESLEY WHEELER  
MEMPHIS TN 38152-0001

ACCOUNT NUMBER	PERCENT	AMOUNT	ACCOUNT NUMBER	PERCENT	AMOUNT
3-60100-8121	100.00				

NO.	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	EXTENSION
001	1.00	LOT	Regular Order NEW TICKETING COMPUTER SYSTEM IBM RS6000 MODEL P50 WITH SOFTWARE AND PROJECT MANAGEMENT FEES.	49,205.00	49,205.00

THE UNIVERSITY OF MEMPHIS

TOTAL &gt;&gt;

\$ 49,205.00

By:

*Clark Reese*  
Signature

Date

5-25-99

Page 1

## System Purchase Contract

This contract is between Paciolan Systems, Inc. (referred to as "PSI") and University of Memphis (referred to as "CUSTOMER"). The subject of this contract is the purchase from PSI by CUSTOMER of a data processing system (referred to as the "SYSTEM").

### Attachments

Included as attachments to this contract and incorporated herein are the Hardware Addendum, the Applications Software and Services Addendum, the Operating Environment Addendum, the Software Usage Notice, and the Investment Addendum.

### Components

The SYSTEM consists of the following components:

- (a) Hardware, which is purchased by CUSTOMER in accordance with the terms specified in the Hardware Addendum.
- (b) Software, the use of which is licensed to CUSTOMER in accordance with the terms of the Applications Software and Services Addendum.
- (c) Operating Environment, the use of which is licensed to CUSTOMER in accordance with the terms of the Operating Environment Addendum.

### Payment and Credit Terms

CUSTOMER shall pay to PSI <sup>48,795</sup>~~49,205~~, which represents the sum of the following prices, itemized in the Investment Addendum:

Hardware	\$39,800
Operating Environment Software	\$3,905
Services	\$5,500

These components are covered by this contract, according to the following schedule:

6/24/99 52999 50% \$24,602.50 DUE ON Acceptance of Contract.

6/29/99 23179 50% \$24,602.50 DUE ON Product Installation.

~~410.00~~ CR: 32 USER 10M AOK 4.3 Upgrade  
24,192.50

Invoices are due and payable in accordance with the terms stated on each individual invoice. Failure to remit any amount when due shall entitle PSI to collect a late charge. Late payments shall bear interest on the unpaid amount due at one percent (1%) per month. Any disputes in amounts invoiced should be reported within five (5) working days to PSI to avoid assessment of late charges.

## **Separately Billable Items**

Unless specifically itemized as part of this contract, the following items, if applicable, are the responsibility of the CUSTOMER and will be billed separately.

### **SHIPPING/HANDLING AND INSURANCE**

All shipping, handling and insurance costs are the responsibility of CUSTOMER. Components will be shipped to CUSTOMER freight prepaid, and PSI will bill CUSTOMER as charges are incurred.

### **TRAVELING AND LODGING**

Traveling, meals, and lodging expenses incurred by PSI personnel in the execution of this contract (for work agreed to in advance by CUSTOMER) will be billed to CUSTOMER as they are incurred.

### **DATA CONVERSIONS**

Data conversions, if specified in the Investment Addendum, will be provided by PSI. These may include specification, design, programming, and documentation of data conversions and procedures, and assistance with the execution of the program. Additional services are available at PSI data conversion per diem rates plus any other related expenses.

### **TRAINING AND PROJECT MANAGEMENT**

Training and Project Management services as detailed in the Investment Addendum will be performed by PSI. The anticipated cost of services is included in the Services section of the Investment Addendum of this contract. Any services beyond any so specified will require separate contracting and invoicing.

### **INSTALLATION SERVICES**

Installation and related services detailed in the Investment Addendum will be performed by PSI. The anticipated cost of services is included in the Services section of the Investment Addendum of this contract. Any services beyond any so specified will require separate contracting and invoicing.

### **SALES TAX**

CUSTOMER is responsible for payment of all applicable sales taxes. CUSTOMER warrants that any applicable sales taxes will be paid and evidence of payment will be provided to PSI upon request. If CUSTOMER is tax exempt, a copy of CUSTOMER's certificate of exemption should be returned to PSI with the signed purchase contract.

## Defense Against Claims

CUSTOMER should notify PSI promptly in writing of any claim brought against CUSTOMER based on the contention that the usage by CUSTOMER of any component of the SYSTEM constitutes a property violation. Given such notification, and given complete authority, full information, and active assistance by CUSTOMER, PSI will defend against such claims at its own expense, and should any such claim succeed, then:

- (a) If any penalties are awarded against CUSTOMER, then PSI will reimburse CUSTOMER for these costs in full, and
- (b) If the judgment enjoins CUSTOMER from using any component of the SYSTEM, then PSI will resolve the issue by modifying or replacing the component, or, if that is not possible, by removing the component and reimbursing CUSTOMER for the component's purchase price.

PSI will not be liable for claims based on usage of any component of the SYSTEM involving either interconnection with any components not obtained from or approved by PSI, or applications not approved by PSI.

## Limitation of Liability

PSI does not imply any guarantee not expressly stated in this contract. PSI is not liable for any indirect, special, or consequential damages arising out of the use of any of the components or services covered by this contract.

## Acceptance

The SYSTEM will be deemed accepted by CUSTOMER as soon as it has been installed at CUSTOMER's designated location, has been subjected to tests carried out by PSI, has been declared operational by PSI and CUSTOMER, and as soon as CUSTOMER has received initial instruction from PSI in its use. CUSTOMER's acceptance of the SYSTEM does not nullify guarantees made by PSI in the Hardware, Software and Services or Operating Environment Addenda.

## Maintenance and Support

Upon SYSTEM installation by PSI, CUSTOMER should enter into a Software Support and Services Contract with PSI.

For any services requested by CUSTOMER but not provided in the PSI Software Support and Services Contract, CUSTOMER will be responsible to contract with PSI on a time-and-materials basis or to secure the necessary support services through appropriate third-party organizations.

If requested by CUSTOMER, PSI agrees to provide an annual review of CUSTOMER's use of the SYSTEM on or about the anniversary date of the contract. This service shall be administered as an additional chargeable item.

### **Future Purchases**

The terms of this contract will apply to any future purchases from PSI which augment the hardware and software set forth in the Investment Addendum unless explicitly excluded by agreement of CUSTOMER and PSI.

### **Amendments**

This contract may be amended at any time during its term by a written agreement signed by authorized representatives of CUSTOMER and PSI.

### **Correspondence**

All communications between CUSTOMER and PSI in connection with this contract should be in writing and addressed as follows:

**To PSI:**

Paciolan Systems, Inc.  
2875 Temple Avenue  
Long Beach, CA 90806  
Attn: Diedre Fulmer  
Contracts Administrator

**To CUSTOMER:**

University of Memphis  
Athletic Office Building  
Memphis, TN 38152  
Attn: Wesley Wheeler

### **Settlement of Disputes**

Any dispute affecting this contract will be resolved by submitting the dispute to an independent arbitrator chosen by agreement of PSI and CUSTOMER and such arbitration shall be conducted in accordance with the rules of the American Arbitration Association. It is agreed that the decision of this arbitrator shall be binding, and that the costs of settling the dispute shall be allocated among the parties by the arbitrator.

### **Purchase Orders**

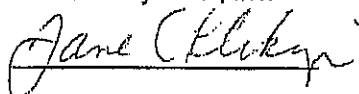
In the event of any conflict between this contract and the terms and conditions of any purchase order, the terms and conditions of this contract will prevail.

## Signatures

The following are the signatures of representatives of PSI and CUSTOMER who have legal authority to bind their respective organizations and by signing have consummated this contract:

Paciolan Systems, Inc.

By:



Name: Jane C. Kleinberger

Title: President

Date:

April 9, 1999

University of Memphis

By:



Name:

Joe Bond

Title:

DIRECTOR - Purchasing

Date:

May 25, 1999

## Hardware Addendum

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The subject of this addendum is the purchase from PSI by CUSTOMER of computer hardware obtained by PSI from its manufacturer (referred to as "MANUFACTURER").

### Hardware Components

A complete list of the components which constitute the hardware purchased under this contract is included in the Investment Addendum.

### Ownership

The hardware (exclusive of any operating system firmware contained therein) will become the property of CUSTOMER as soon as CUSTOMER has made full payment to PSI of the amount stated in the Hardware section of the Investment Addendum. Prior to full payment being made, the hardware remains the property of PSI.

In the event of payment default, CUSTOMER agrees to return to PSI sufficient hardware to cover, at the listed prices, 100% of the unpaid balance plus a 30% restocking fee, with any delivered hardware remaining becoming the property of CUSTOMER. The return of hardware, the restocking fee together with any payments already made, constitute the full extent of CUSTOMER's liability for default.

The risk of loss or damage of the hardware will become the responsibility of CUSTOMER immediately upon delivery and installation at CUSTOMER's site, regardless of whether the hardware has been paid for at that time.

### Guarantee

PSI guarantees that the hardware will perform in accordance with MANUFACTURER's specifications at the time of delivery and installation by PSI. Copies of the MANUFACTURER's specifications and warranties, to the extent applicable, will be supplied with shipment of the products.

### Delivery

The hardware will be shipped by PSI to CUSTOMER, freight prepaid, in accordance with a mutually agreeable delivery schedule. The address of the site to which the hardware is to be delivered is:

University of Memphis  
Athletic Office Building  
Memphis, TN 38152  
Attn: Wesley Wheeler

## **Installation**

Installation of the hardware at CUSTOMER's site will be performed by representatives of PSI who may also be accompanied by MANUFACTURER's representative. Every reasonable effort will be made to minimize disruption of CUSTOMER's normal operation. Prior to the scheduled date of delivery, CUSTOMER, at its expense, will prepare the site so that all facilities, including space, electrical power, air conditioning, and cabling, are in accordance with installation specifications mutually agreed to by PSI and CUSTOMER.

## **Training**

PSI's base recommendations for hardware training are included in the Applications Software and Services Addendum. PSI agrees to make available for purchase by CUSTOMER additional training in the use of the hardware. While it is usually found convenient to have this training at CUSTOMER's site after delivery of the hardware, the location and schedule can be arranged to be whatever is suitable to both PSI and CUSTOMER. The training need not take place in one continuous session and should proceed according to an agenda agreed to by both PSI and CUSTOMER.



## **Applications Software and Services Addendum**

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The subject of this addendum is the usage of applications software and services which are being made available to CUSTOMER by PSI.

### **Applications Software and Services**

A complete list of the items that constitute the Applications Software, and the Services, is included in the Investment Addendum.

### **Installation**

Applications software will be installed on CUSTOMER's hardware at PSI before being shipped to CUSTOMER.

### **Ownership**

The Applications software, which includes both the system design and the programs which realize that design, is the property of PSI. PSI retains the sole right for licensing of this software. CUSTOMER's right is the use of the software provided that it complies with the terms of this contract and abides by the limitations specified below. This right of use of the software is nonexclusive and nontransferable and is limited to the computer specified in this contract, and cannot be copied or duplicated or modified in any way without the express written permission of PSI, and is restricted to processing one database and only for the CUSTOMER's own business. The usage of the software will not subject CUSTOMER to any charges except as provided herein, and will not expose CUSTOMER to liability for violations of copyrights or patents.

PSI agrees that the data to which the software is to be applied during CUSTOMER's usage is the property of CUSTOMER and agrees neither to make use of this data nor to transfer it to any other party without CUSTOMER's written consent.

### **Guarantee**

PSI guarantees that the applications software performs with at least the functionality specified in the design specifications published by PSI. This is a minimum requirement; the software may exceed those specifications. The guarantee holds for the duration of CUSTOMER's use of the software under this contract provided CUSTOMER maintains the hardware per MANUFACTURER's specifications furnished upon delivery. This guarantee does not cover loss of function due to any changes of hardware, operating system, or software made by any person other than PSI.

## **Limitation On Use**

The Applications software is licensed for use on a specific computer. The serial number of this computer will be designated in writing at a later time by the parties. The use of the software by CUSTOMER is limited to the processing on such computer of a single database per software module, as specified in the Software Schedule, at a single operational site. An operational site is defined as any number of people operating a software system at a specific location. Application of the software to the processing of further databases requires an addendum to this contract with PSI for each such usage.

## **Termination**

The Applications Software and Services Addendum of this contract may be terminated by PSI if CUSTOMER defaults on any of its terms. PSI must notify CUSTOMER in writing and CUSTOMER shall have 30 days from receipt of such notification to cure the default. Upon termination, CUSTOMER will return to PSI all copies of the software and its documentation which exist on media owned by PSI, and PSI will erase or destroy all copies of the software and its documentation which exist on media belonging to CUSTOMER. If the default is by PSI, CUSTOMER must notify PSI in writing and PSI shall have 30 days from receipt of such notification to cure the default. PSI will refund to CUSTOMER any payments already made less reasonable compensation to PSI based on fair value for use of software and for services rendered under this contract.

## **Environment**

The Applications software is designed to run in a specific operating environment as defined in the Operating Environment Addendum, and detailed in the Investment Addendum. PSI will neither support its use nor guarantee its functionality in any other environment.

## **Source Code**

Delivered with each applications software module will be one copy of the object code and one copy of the source code. Also delivered will be one copy of the user's manual for each PSI software module listed in the Investment Addendum.

## **Unauthorized Access**

The use of the Applications software may not be transferred from CUSTOMER to any other party without written permission from PSI. Should any unauthorized transfer take place, CUSTOMER agrees to take full responsibility for terminating the unauthorized usage. CUSTOMER agrees that all of its contractors or employees who have access to the software or its documentation should read and sign the Software Usage Notice provided by PSI and that copies of all such signed notices should be made available to PSI upon request.

## **Enhancements**

Periodically, PSI incorporates enhancements to the software which are available at no charge to customers contracting with PSI for software maintenance. For customers not under full software maintenance, enhancements are made available at rates determined by PSI. This may, but not necessarily, apply to system rewrites where significant functionality is being added to the system.

## **Custom Data Conversion**

PSI offers custom data conversion programming at fixed and estimated pricing based on the criteria detailed in PSI's Services Policies document, attached as an Exhibit.

## **Training/Consultation/Project Management/Network Connect Service**

When applicable, included as part of this contract (but separate from the software license fee) are the costs for training, on-site consultation services, project management, and the network connect service as detailed in the Applications Software section of the Investment Addendum.

As part of the training services, PSI will provide CUSTOMER with system consultation concerning their specific use of the PSI software, design specifications, standard system training for all operators, training of the systems administrator, and comprehensive documentation services (including progress reports, trip follow-ups, and CUSTOMER assistance with their in-house procedures manual relating to the system).

The project management fee covers general project management pertaining to all aspects of the system implementation and is headed by a Senior Systems Analyst. These services may be performed either on or off CUSTOMER site as detailed in the Applications Software section of the Investment Addendum.

Additional on-site consultation and training visits by PSI personnel are available at PSI's published per diem rates. In addition, CUSTOMER may attend training courses at PSI's office at times and rates periodically published. While it is usually found convenient to have this training at CUSTOMER's site after delivery of the software, the location and schedule can be arranged to be whatever is suitable to both PSI and CUSTOMER. The training will not typically take place in one continuous session, but rather will follow an agenda agreed to by PSI and CUSTOMER.

The network connect service, if purchased, provides assistance connecting the SYSTEM to CUSTOMER's TCP/IP network.

## **Services Policies**

Attached as an Exhibit and incorporated herein are PSI's Services Policies. These policies detail the services provided during the installation and ongoing support of CUSTOMER's SYSTEM.

## **Operating Environment Addendum**

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The subject of this addendum is the purchase and usage by CUSTOMER of the products that comprise PSI's operating environment.

### **Operating Environment Products**

A complete list of the items that make up the Operating Environment Products is included in the Investment Addendum.

### **Right of Use**

The AIX operating system, the UniVerse database management system, and the SB+ 4GL (in common called The PRODUCTS) are the property of their respective Developers, IBM Corporation (AIX), Ardent (UniVerse), and Ardent (System Builder). CUSTOMER's right is in the use of the PRODUCTS provided it complies with and abides by the terms of this contract and the limitations specified by the PRODUCTS' Developers. The right of use is both nonexclusive and nontransferable and is limited to the computer specified in this contract or a PSI approved replacement computer. CUSTOMER agrees to take reasonable steps to safeguard the PRODUCTS from persons other than its own contractors or employees, and to instruct its contractors and employees on the proprietary nature of the PRODUCTS.

The licenses will become effective as soon as CUSTOMER enters into a sublicense agreement covering such use with PSI or the PRODUCTS' Developers.

The use of the PRODUCTS will not subject CUSTOMER to any charges not specified in this contract.

### **Limitation on Use**

The PRODUCTS are licensed for use on a specific computer or replacement computer approved by PSI and meeting PSI's operations specifications, which approval shall not be unreasonably withheld. The serial number of this computer will be designated in writing at a later time by the parties. Transfer to and usage on any other computer requires renegotiation of the license agreement with PSI and/or the PRODUCTS' Developers.

### **Environment**

The PRODUCTS consist of both a software component, delivered on standard backup media, and in the case of AIX a firmware component, contained within the hardware. The PRODUCTS are not available nor are they guaranteed to function on hardware which is not explicitly approved by PSI.

## **Guarantee**

PSI guarantees that the PRODUCTS will perform in accordance with their Developer's specifications at the time of delivery and installation and will perform their intended functions with PSI's software and PSI supplied hardware at the time of installation and acceptance at CUSTOMER's site. Upon acceptance, the Developer's warranty becomes applicable.

## **Installation**

Installation of the PRODUCTS will be performed prior to delivery to CUSTOMER.

## **Training/Consultation**

The training schedule set forth in the Investment Addendum includes training in the use of the PRODUCTS sufficient for CUSTOMER to begin use of the SYSTEM. PSI agrees to make available for purchase by CUSTOMER additional consultation and training in the use of the PRODUCTS. While it is usually found convenient to have this training at CUSTOMER's site after delivery of the hardware, the location and schedule can be arranged to be whatever is suitable to both PSI and CUSTOMER. The training need not take place in one continuous session, and should proceed according to an agenda agreed to by PSI and CUSTOMER.

## **Sublicense Agreement**

The PRODUCTS sublicense agreement for AIX and UniVerse are granted with the signing of this agreement.

The sublicense for SB+ will follow under separate cover. It is the responsibility of the CUSTOMER to sign the SB+ agreement and return it to PSI immediately upon receipt. Failure to do so may result in delays in shipping and future access to SB+ system upgrades.

## **Termination**

Upon termination of CUSTOMER's use of the computer specified in this contract, CUSTOMER agrees to erase or destroy all copies of the PRODUCTS and its documentation which exist on media owned by PSI, and PSI agrees to erase or destroy all copies which exist on media belonging to CUSTOMER.

## Software Usage Notice

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The institution for which you work has contracted with Paciolan Systems, Inc. for the use of its software. This notice is provided to assist you in understanding the terms of that usage. By signing below, you are acknowledging that you are aware of those terms and that you agree to honor them.

The institution owns the use of the software, not the software itself, and has the right to use the software indefinitely in the processing of one or more specified databases covered in its contract with PSI. Neither the institution nor any of its contractors or employees has the right to transfer any of the rights covered by that contract to any other party without permission from PSI. Specifically, this prohibition includes, but is not limited to transfer of:

- (a) physical copies of the software or its design specifications or user manual, for example on listings, tapes, or other media.
- (b) the use of the software, for example by allowing an unauthorized person access to a terminal or telephone modem.
- (c) the ideas incorporated into the design and construction of the software, for example by explaining to a competitor of PSI how PSI has solved some problem or implemented some features.

It is in the interests of PSI and your institution that their relationship should be a productive one based on mutual respect for each other's property, and it is for this reason that the property boundaries should be understood by everyone concerned.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## **Services Policies Exhibit**

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Revised

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## Investment Addendum

INVESTMENT SUMMARY				
Qty	Description	Unit Price	Ext Price	QSC
<b>HARDWARE - IBM RS/6000</b>				
1	Model F50, (2) 332MHz processors, 192MB Memory, (2) 4.5GB SSA Hot Swap Disks, (1) 4.5GB Ultra SCSI Disk, 128-Port Controller, 16-Port RAN, 12/24GB 4MM Tape Drive, 10/100 Ethernet, CD-Rom, Color Monitor, Keyboard, Mouse	\$37,960	\$37,960	\$912 *
5	4MM Backup Tape	\$25	\$125	N/A
16	Adapter Cables	\$20	\$320	N/A
1	Exide 1KVA UPS with Unix Software	\$1,395	\$1,395	
<b>Total Hardware</b>			<b>\$39,800</b>	<b>\$912 *</b>
<b>Operating Environment Software</b>				
1	AIX Performance Toolbox Aide	\$1,345	\$1,345	N/A
1	64-User IBM AIX 4.3 Upgrade (Y2K Compliant on CD)	\$2,210	\$2,210	N/A
1	32-User UniVerse DBMS Upgrade	N/C	N/C	N/A
1	Accuterm '97 Site License Upgrade	\$350	\$350	
<b>Total Operating Environment Software</b>			<b>\$3,905</b>	
<b>SERVICES**</b>				
1	Project Management Fee	\$1,500	\$1,500	N/A
2	Day(s), RS/6000 Configuration and Testing @ PSI	\$1,000	\$2,000	N/A
2	Day(s), RS/6000 Setup @ Customer Site	\$1,000	\$2,000	N/A
<b>Total Services</b>			<b>\$5,500</b>	
<p>* QSC — Manufacturer's Quarterly Service Charge-After 1 year warranty Customer is responsible for procuring maintenance services directly from manufacturer or third party provider.</p> <p>** All services based on 8-hour day (refer to Services Policies document) plus expenses: Travel expenses (airfare, meals, lodging, etc.) will be billed to customer as incurred. Unused training and consultation days will be credited to future service purchases.</p>				
<b>TOTAL SYSTEM</b>			<b>\$49,205</b>	<b>\$912 *</b>

## Leni Chick

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**From:** William J Mueller (wmueller) [wmueller@memphis.edu]  
**Sent:** Tuesday, October 09, 2007 8:28 AM  
**To:** Leni Chick  
**Subject:** RE: University of Memphis and East Tennessee State University

Leni:

Thanks.

Billy

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**From:** Leni Chick [mailto:leni.chick@legislature.state.tn.us]  
**Sent:** Tuesday, October 09, 2007 8:21 AM  
**To:** William J Mueller (wmueller); Angela Gregory  
**Cc:** William E Lofton (wlofton); Mark L Reavis (mreavis)  
**Subject:** RE: University of Memphis and East Tennessee State University

Not a problem - will see in November - Leni

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**From:** William J Mueller (wmueller) [mailto:wmueller@memphis.edu]  
**Sent:** Tuesday, October 09, 2007 8:18 AM  
**To:** Leni Chick; Angela Gregory  
**Cc:** William E Lofton (wlofton); Mark L Reavis (mreavis)  
**Subject:** RE: University of Memphis and East Tennessee State University

Leni:

Thanks for your e-mails.

I am still in the process of obtaining signatures on the Fiscal Review Forms for Internet2. I hope to have all that very soon to send to Angela.

To make sure we have all our ducks in a row, I would request the November 13, 2007 date to hear both matters if at all possible.

Let me know if anyone has any questions.

Thanks.

Billy Mueller  
(901) 678-3879

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**From:** Leni Chick [mailto:leni.chick@legislature.state.tn.us]  
**Sent:** Tuesday, October 09, 2007 8:10 AM  
**To:** Angela Gregory  
**Cc:** William J Mueller (wmueller)  
**Subject:** RE: University of Memphis and East Tennessee State University

never mind the part about the amendment - I just saw where Mr. Mueller had sent the corrected form to me - sorry about that - Leni

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**From:** Leni Chick

10/9/2007